

## REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.114 and in light of the remarks which follow, are respectfully requested.

At the outset, Applicants note with appreciation the indication that claim 14 is allowed, and that claim 23 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. See Official Action at page 3.

By the above amendments, claim 12 has been canceled without prejudice or disclaimer. Claims 1, 2 and 17-19 have been amended to recite that (B) said polyvalent metal compound comprises calcium. Support for such amendments can be found in the instant specification at least at page 26, lines 16-18. Claims 11 and 23 have been amended in a manner consistent with the above amendment to claim 1. New claims 25 and 26 have been added which recite that (B) the polyvalent metal compound comprises at least one compound selected from the group consisting of  $\text{CaSO}_4$ ,  $\text{Ca(OH)}_2$ ,  $\text{CaCO}_3$ ,  $\text{CaO}$ ,  $\text{CaSO}$  and a combination thereof. Support for such amendment can be found in the instant specification at least at page 72, Table 3. Entry of the foregoing amendments is proper at least because a Request for Continued Examination is being filed herewith. See 37 C.F.R. §1.114.

In the Official Action, claims 1-7, 9, 15-22 and 24 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent Application Publication No. 2003/0020199 (*Kajikawa et al*). Claims 1-7, 9, 11-13, 15-22 and 24 stand rejected under 35 U.S.C. §103(a) as being obvious over *Kajikawa et al* in view of Japanese Patent Document No. JP 02-178332 (*Hayashi et al*). Withdrawal of these rejections is respectfully requested for at least the following reasons.

Independent claims 1 and 2 recite a particulate water retaining material for cultivating plant. Independent claims 17-19 recite a method for the production of a water retaining material for cultivating plant.

*Kajikawa et al* does not disclose or suggest each feature recited in the independent claims. For example, *Kajikawa et al* does not disclose or suggest a water retaining material for cultivating plant comprising (B) a polyvalent metal compound, wherein (B) said polyvalent metal compound comprises calcium, as recited in claims 1, 2 and 17-19. *Kajikawa et al* has no disclosure or suggestion of employing a polyvalent metal compound comprising calcium.

*Hayashi et al* fails to cure the above-described deficiencies of *Kajikawa et al*. In this regard, the Patent Office has alleged that *Hayashi et al* provides motivation for incorporating inorganic powders such as calcium sulfate and calcium hydroxide in water absorbent resins "for antistatic treatment to prevent dust explosion in air transportation, adhesion to packaging bag and damage of apparatus due to electrical discharge." See Official Action at pages 5-6.

However, Applicants have discovered that by employing (B) said polyvalent metal compound comprising calcium in a water retaining material for cultivating plant, **surprising** and **unexpected** results can be attained, for example, in the form of improved germination index, rhizogenesis index, irrigation efficiency, and plant growth characteristics. See, for example, the instant specification at the paragraph bridging pages 25 and 26, taken in connection with the experimental data set forth at pages 72 and 73 (Tables 3 and 4).

As can be seen in Table 3, inventive Examples 1-15 employed a calcium-containing polyvalent metal compound. On the other hand, reference Examples 1-8 did not employ a polyvalent metal compound, and comparative Examples 1 and 6-9

employed certain polyvalent metal compounds that did not contain calcium. Various characteristics of the examples were observed in the manner discussed at pages 51-54 of the instant specification, and the experimental data is set forth in Table 4. As can be seen from such Table, inventive Examples 1-15 exhibited substantially superior characteristics in comparison with the reference and comparative examples, for example, superior germination index, rhizogenesis index, irrigation efficiency, and plant growth characteristics.

*Kajikawa et al* and *Hayashi et al* have no recognition or suggestion of the surprising and unexpected results in the form of, for example, improved germination index, rhizogenesis index, irrigation efficiency, and plant growth characteristics, which are attainable from the use of the claimed water retaining material. As such, it is apparent that the claims are non-obvious over the applied art.

Accordingly, for at least the above reasons, withdrawal of the above §103(a) rejections is respectfully requested.

The dependent claims are allowable at least by virtue of their direct or indirect dependence from one of the independent claims. Thus, a detailed discussion of the additional distinguishing features recited in the dependent claims is not set forth at this time.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

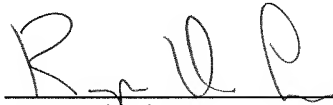
The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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